

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SMITH & HAWKEN, LTD.,

No. C 04-1664 SBA

Plaintiff,

ORDER

v.

GARDENDANCE, INC., et al.,

Defendants.

This matter comes before the Court on Defendants' request for an extension of time to file their Opposition to Plaintiff's Motion for Summary Judgment, and Plaintiff's request for an extension of time to file its Reply. Plaintiff noticed its Motion for Summary Judgment for hearing on June 21, 2005. Pursuant to N.D. Civ. L.R. 7-3, Defendants' Opposition was due no later than May 31, 2005. Defendants filed their Opposition and request for an extension of time to file such Opposition on June 7, 2005.

Defendants assert that they attempted to seek an extension on May 30, 2005, but that "the ECF system would not accept the filing so counsel emailed the file to the help desk and asked the help desk to file it for him. Apparently, the help desk did not file the motion, even though its system prevented the filing." (Defendants' Motion for Extension of Time, 1.)

The Court admonishes Defendants that it is not the responsibility of the ECF help desk to ensure that Defendants' documents are filed. Defendants' Counsel cannot simply e-mail the help desk and wash his hands of his obligation to ensure that his clients' documents are actually filed.

Nevertheless, in the interests of justice, the Court grants Defendants' request for an extension of time

//

1 and grants Defendants leave to file their Opposition late. Accordingly, the Court also grants Plaintiff's
2 request for a one-week extension of time to file its Reply. Plaintiff shall file its Reply no later than June 14,
3 2005. In addition, the hearing on Plaintiff's Motion for Summary Judgment is CONTINUED to July 26,
4 2005, at 1:00 p.m.

5 IT IS SO ORDERED.

6
7 Dated: 6-9-05

/s/ Sandra Brown Armstrong
SAUNDRA BROWN ARMSTRONG
United States District Judge